

✓ P/B
ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

Debbie C. Zumwalt,

Plaintiff,

VS.

REALPAGE, INC., M-PF RESEARCH, INC.,
STEVEN GREGORY WILLOT, personally,
and JOSEPH WRIGHT CLEMENTS, personally,

Defendants.

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3 - 05 CV 1744 - P
CIVIL ACTION NO: 222505

COMPLAINT

I. SUMMARY

1. RealPage, Inc., M-PF Research, Inc., Steven Gregory Willot, personally, and Joseph Wright Clements, personally [hereinafter Defendants] require and/or permit Debbie C. Zumwalt to work in excess of forty hours per week at their facilities, but refuse to compensate her for such hours. Defendants' conduct is in violation of the Fair Labor Standards Act (FLSA), which requires non-exempt employees to be compensated for their overtime work. *See* 29 U.S.C. § 207(a).
2. Plaintiff Debbie C. Zumwalt is a non-exempt employee who has been denied overtime pay as required by law, and files this complaint to recover unpaid overtime compensation.

II. JURISDICTION AND VENUE

4. This Court has jurisdiction over the subject matter of this action under 29 U.S.C. § 216(b) and 28 U.S.C. § 1331.
5. Venue is proper in the Northern District of Texas because a substantial portion of the events forming the basis of the suit occurred in this District.

III. THE PARTIES

6. Debbie Zumwalt is a resident of Dallas, Texas. Ms. Zumwalt's written consent to bring this action is attached as Exhibit "A."
9. RealPage, Inc. transacts business in this District at 4000 International Parkway, Suite 1000, Carrollton, Texas, 75007. This complaint may be served on Real Page, Inc., by its Registered Agent CT Corporation Systems at their Registered Office at 350 North St. Paul Street, Dallas, Texas, 75201.
10. M-PF Research, Inc. transacts business in this District at 4000 International Parkway, Suite 1000, Carrollton, Texas, 75007. This complaint may be served on M-PF Research, Inc. by its Registered Agent CT Corporation Systems at their Registered Office at 350 North St. Paul Street, Dallas, Texas, 75201.
11. Steven Gregory Willot is a resident of Texas and may be served at RealPage Inc., located at 4000 International Parkway, Suite 1000, Carrollton, Texas, 75007.
12. Joseph Wright Clements is a resident of Texas and may be served at RealPage Inc., located at 4000 International Parkway, Suite 1000, Carrollton, Texas, 75007.

IV. COVERAGE

13. Defendants transact business in this District at 4000 International Parkway, Suite 1000, Carrollton, Texas, 75007
14. At all material times, Defendant RealPage, Inc. has been an employer within the meaning of § 3(d) of the FLSA. 29 U.S.C. § 203(d).
15. At all material times, Defendant M-PF Research, Inc. has been an employer within the meaning of § 3(d) of the FLSA. 29 U.S.C. § 203(d).

- 16. At all material times, Defendant Steven Gregory Willot has been an employer within the meaning of § 3(d) of the FLSA. 29 U.S.C. § 203(d).
17. At all material times, Defendant Joseph Wright Clements has been an employer within the meaning of § 3(d) of the FLSA. 29 U.S.C. § 203(d).
18. At all material times, Defendants have been an enterprise within the meaning of § 3(r) of the FLSA. 29 U.S.C. § 203(r).
19. At all material times, Defendants have been an enterprise engaged in commerce or in the production of goods for commerce within the meaning of § 3(s)(1) of the FLSA because they have had employees engaged in commerce. 29 U.S.C. § 203(s)(1).
20. Defendants have had, and continue to have, an annual gross income of sales made or business done of not less than \$500,000.
21. At all materials times, Plaintiff was an individual employee who was engaged in commerce or in the production of goods for commerce as required by 29 U.S.C. § 206-207.

V. FACTUAL BACKGROUND

22. Defendants are headquartered in Carrollton, Texas, and have more than 15 years of experience in the multifamily industry. More than 20,000 apartment communities across the United States use Defendants' products and services, which are offered for affordable and conventional properties. As part of their business Defendants hired Ms. Zumwalt as an administrative assistant in their production department, where she has worked for over 10 years. She is an hourly paid, nonexempt employee who routinely worked over 40 hours in a workweek. During the three years preceding this lawsuit, Defendants refused to pay Ms. Zumwalt for overtime hours she worked.

VII. CAUSES OF ACTION

23. Plaintiff incorporates all allegations contained in paragraphs 1 through 22.
24. Defendants' practice of failing to pay Plaintiff for all hours worked violates the FLSA. 29 U.S.C. § 207(a).
25. Plaintiff is entitled to recover her unpaid regular wages and overtime compensation.
26. Plaintiff is entitled to an amount equal to all her unpaid regular and overtime wages as liquidated damages. 29 U.S.C. § 216(b).
27. Additionally, Plaintiff is entitled to recover attorneys' fees and costs as required by the FLSA. 29 U.S.C. § 216(b).

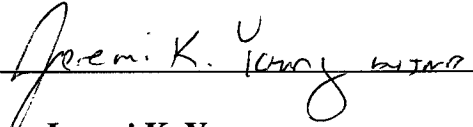
VIII. PRAYER

WHEREFORE, Plaintiff respectfully requests judgment be entered in her favor awarding her:

- a. overtime compensation for all unpaid hours worked in excess of forty hours at the rate of one and one half times her regular rate of pay;
- b. overtime compensation for all overtime hours worked that were paid at the wrong rate of pay;
- c. compensation for all hours worked at a rate not less than the applicable minimum wage;
- d. an equal amount as liquidated damages as allowed under the FLSA;
- e. reasonable attorneys' fees, costs, and expenses of this action as provided by the FLSA;
- f. pre-judgment and post judgment interest at the highest rates allowed by law; and
- g. such other relief as to which Plaintiff may be entitled.

Respectfully submitted,

RASANSKY LAW FIRM

By: 

Jeremi K. Young

State Bar No. 24013793

Jeffrey H. Rasansky

State Bar No. 16551150

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2525 McKinnon, Suite 725

Dallas, Texas 75201

214/651-6100

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ATTORNEYS FOR PLAINTIFF

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<p>(a) PLAINTIFFS Debbie Zumwalt</p>	<p>DEFENDANTS RealPage, Inc., M-PF Research, Inc., Steven Gregory Willot, personally, and Joseph Wright Clements, personally.</p>
<p>(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)</p>	<p>County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p>
<p>(c) Attorney's (Firm Name, Address, and Telephone Number) Jeremi K. Young, Jessica M. Dean and Jeffrey H. Rasansky Rasansky Law Firm; 2525 McKinnon, Dallas, TX 75201; 214 651-6100</p>	<p>Attorneys (If Known)</p>

<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table style="width:100%;"> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> <tr> <td>Citizen of This State</td> <td><input checked="" type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. NATURE OF SUIT (Place an "X" in One Box Only)	
<p>CONTRACT</p> <p><input type="checkbox"/> 110 Insurance</p> <p><input type="checkbox"/> 120 Marine</p> <p><input type="checkbox"/> 130 Miller Act</p> <p><input type="checkbox"/> 140 Negotiable Instrument</p> <p><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)</p> <p><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits</p> <p><input type="checkbox"/> 160 Stockholders' Suits</p> <p><input type="checkbox"/> 190 Other Contract</p> <p><input type="checkbox"/> 195 Contract Product Liability</p> <p><input type="checkbox"/> 196 Franchise</p>	<p>TORTS</p> <p>PERSONAL INJURY</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & Slander</p> <p><input type="checkbox"/> 330 Federal Employers' Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p>PERSONAL INJURY</p> <p><input type="checkbox"/> 362 Personal Injury - Med. Malpractice</p> <p><input type="checkbox"/> 365 Personal Injury - Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</p> <p>PERSONAL PROPERTY</p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>
<p>REAL PROPERTY</p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent Lease & Ejectment</p> <p><input type="checkbox"/> 240 Torts to Land</p> <p><input type="checkbox"/> 245 Tort Product Liability</p> <p><input type="checkbox"/> 290 All Other Real Property</p>	<p>CIVIL RIGHTS</p> <p><input type="checkbox"/> 441 Voting</p> <p><input type="checkbox"/> 442 Employment</p> <p><input type="checkbox"/> 443 Housing/Accommodations</p> <p><input type="checkbox"/> 444 Welfare</p> <p><input type="checkbox"/> 445 Amer. w/Disabilities - Employment</p> <p><input type="checkbox"/> 446 Amer. w/Disabilities - Other</p> <p><input type="checkbox"/> 440 Other Civil Rights</p>
	<p>PRISONER PETITIONS</p> <p><input type="checkbox"/> 510 Motions to Vacate Sentence</p> <p>Habeas Corpus:</p> <p><input type="checkbox"/> 530 General</p> <p><input type="checkbox"/> 535 Death Penalty</p> <p><input type="checkbox"/> 540 Mandamus & Other</p> <p><input type="checkbox"/> 550 Civil Rights</p> <p><input type="checkbox"/> 555 Prison Condition</p>
	<p>FORFEITURE/PENALTY</p> <p><input type="checkbox"/> 610 Agriculture</p> <p><input type="checkbox"/> 620 Other Food & Drug</p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 630 Liquor Laws</p> <p><input type="checkbox"/> 640 R.R. & Truck</p> <p><input type="checkbox"/> 650 Airline Regs</p> <p><input type="checkbox"/> 660 Occupational Safety/Health</p> <p><input type="checkbox"/> 690 Other</p>
	<p>LABOR</p> <p><input checked="" type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Mgmt. Relations</p> <p><input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act</p> <p><input type="checkbox"/> 740 Railway Labor Act</p> <p><input type="checkbox"/> 790 Other Labor Litigation</p> <p><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act</p>
	<p>BANKRUPTCY</p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p>PROPERTY RIGHTS</p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p> <p>SOCIAL SECURITY</p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p>FEDERAL TAX SUITS</p> <p><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)</p> <p><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609</p>
	<p>OTHER STATUTES</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 410 Antitrust</p> <p><input type="checkbox"/> 430 Banks and Banking</p> <p><input type="checkbox"/> 450 Commerce</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Sat TV</p> <p><input type="checkbox"/> 810 Selective Service</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 875 Customer Challenge 12 USC 3410</p> <p><input type="checkbox"/> 890 Other Statutory Actions</p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 892 Economic Stabilization Act</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 894 Energy Allocation Act</p> <p><input type="checkbox"/> 895 Freedom of Information Act</p> <p><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p>

V. ORIGIN (Place an "X" in One Box Only)

☒ 1 Original Proceeding

☐ 2 Removed from State Court

☐ 3 Remanded from Appellate Court

☐ 4 Reinstated or Reopened

☐ 5 Transferred from another district (specify)

☐ 6 Multidistrict Litigation

☐ 7 Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

VI. CAUSE OF ACTION

Brief description of cause: FLSA/Overtime violation

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE

DOCKET NUMBER

DATE: 8/29/05

SIGNATURE OF ATTORNEY OF RECORD: Jeremi K. Young

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG JUDGE